

expenditures for a FFY results in a carry forward that either increases or decreases the unadjusted trigger level described in § 403.750(d). In no case may the carry forward exceed \$50,000,000 for an FFY.

§ 403.756 Sunset provision.

(a) *Effective date.* Beginning with FFY 2002, if the level of estimated expenditures for all RNHCIs exceeds the trigger level for 3 consecutive FFYs, CMS will not accept as the basis for payment of any claim any election executed on or after January 1 of the following calendar year.

(b) *Notice of activation.* A notice in the FEDERAL REGISTER will be published at least 60 days before January 1 of the calendar year that the sunset provision becomes effective.

(c) *Effects of sunset provision.* Only those beneficiaries who have a valid election in effect before January 1 of the year in which the sunset provision becomes effective will be able to claim Medicare payment for care in an RNHCI, and only for RNCHI services furnished during that election.

§ 403.764 Basis and purpose of religious nonmedical health care institutions providing home service.

(a) *Basis.* This subpart implements sections 1821, 1861, 1861(e), 1861(m), 1861(y), 1861(ss) and 1861(aaa), 1869 and 1878 of the Act regarding Medicare payment for items and services provided in the home setting furnished to eligible beneficiaries by religious nonmedical health care institutions (RNHCIs).

(b) *Purpose.* The home benefit provides for limited durable medical equipment (DME) items and RNHCI services in the home setting that are fiscally limited to \$700,000 per calendar year, with an expiration date of December 31, 2006, or the date on which the 2006 spending limit is reached.

[69 FR 66419, Nov. 15, 2004]

§ 403.766 Requirements for coverage and payment of RNHCI home services.

(a) Medicare Part A pays for RNHCI home services if the RNHCI provider does the following:

(1) Submit a notice of intent to CMS to exercise the option of providing home service.

(2) Provide RNHCI services to eligible beneficiaries,

(3) Arrange with suppliers to furnish appropriate DME items as required to meet documented eligible beneficiary needs.

(4) Arrange for RNHCI nurse home visits to eligible beneficiaries.

(5) Have a utilization committee that assumes the additional responsibility for the oversight and monitoring of the items and RNHCI nursing services provided under the home benefit.

(6) Meet all applicable requirements set forth in subpart G of this part.

(b) To be an eligible beneficiary to RNHCI home services the beneficiary must:

(1) Have an effective election in place.

(2) Be confined to the home, as specified in § 409.42(a) of this chapter.

(3) Have a condition that makes him or her eligible to receive services covered under Medicare home health.

(4) Receive home services and DME items from a RNHCI.

(5) Be responsible for deductible and coinsurance for DME, as specified in § 409.50 of this chapter.

[69 FR 66419, Nov. 15, 2004, as amended at 70 FR 16721, Apr. 1, 2005]

§ 403.768 Excluded services.

In addition to items and services excluded in § 409.49 of this chapter, items and services are also excluded if they are provided by:

(a) A HHA that is not a RNHCI.

(b) A supplier who is not providing RNHCI designated items under arrangement with a RNHCI.

(c) A nurse who is not providing RNHCI home nursing services under arrangement with a RNHCI.

[69 FR 66419, Nov. 15, 2004]

§ 403.770 Payments for home services.

(a) The RNHCI nursing visits are paid at the modified low utilization payment adjusted (LUPA) rate used under the home health prospective payment system at § 484.230 of this chapter.